

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the subject application. The Final Office Action of June 17, 2003 has been received and the contents carefully reviewed. Claims 1, 29, 30, 32, 36, 37, 39, and 40 are pending.

In the Final Office Action, the Examiner rejected claims 1, 29, 30, 32, 36, 37, 39, and 40 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,584,495 to Mason (“Mason”).

Claim 1 recites a combination of elements including, for example, “a step portion adapted to be hinged to the mounting portion, wherein the step portion is adapted to be moveable between a first in-use position and a second stowed position whereby the mounting portion is adapted to be secured to a vehicle, the step portion is disposed above a hitch portion and usable with or without the vehicle hitch being in use, and in the second stowed position, the step portion is adapted to be adjacent to rear of a vehicle and forward, with respect to the direction of travel of a vehicle, of the hitch.”. Mason fails to disclose this element.

First, the examiner states that the upper receiver 26 is the step portion of claim 1. Nowhere does Mason teach or disclose that the upper receiver 26 is a step portion. The upper receiver 26 is intended to prevent a tongue 20 of a trailer from separating from a hitch ball 16. (Col. 4, ll. 16-21.)

Second, if it assumed that the upper receiver 26 is a step portion (which the Applicant does not concede), then the upper receiver 26 still does not meet the above stated element of claim 1. Claim 1 calls for a step portion that is movable between a first in-use position and a second stowed position. When the upper receiver 26 is closed upon the ball it would be in an in-use position. The only other position of the upper receiver 26 that would correspond to a stowed position would be to have the upper receiver rotated open and hanging down along the side of the trailer hitch locking assembly 10. This would not be a viable position for the upper receiver 26 while towing a trailer, because the upper receiver would not be secure and would move about

and further it would not serve its primary function of preventing the tongue 20 the trailer from separating from the hitch ball 16.

Finally, in claim 1, the step portion has a second stowed position that is adapted to be forward, with respect to the direction of travel of a vehicle, of the hitch. So even assuming that the upper receiver 26 is a step portion and that it has a stowed position when it is rotated to the side of the trailer hitch assembly 10 (again the Applicant does concede this), this stowed position would be to the side of the hitch rather than forward of the hitch as required in claim 1.

Therefore, because Mason does not disclose all of the elements of claim 1 for the various reasons stated above, the applicant states that claim 1 is allowable over Mason. Further claims 29, 30, 32, 36, 27, 39, and 40 that depend from claim 1 are also allowable over Mason.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If the Examiner deems that a telephone conference would further the prosecution of this application, the Examiner is invited to call the undersigned attorney at the Washington, D.C. telephone number 202-496-7500. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

Dated: October 17, 2003

Respectfully submitted,

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